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Paper No.

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APR 13 2004

OFFICE OF PETITIONS

In re Application of
James Deerman, Ramanamurthy Dantu,
Aswinkumar Rana and Keung Yue
Application No. 10/652,265
Filed: August 29, 2003
Attorney Docket No. NR-14
Title: REDUNDANCY SCHEME FOR
NETWORK PROCESSING SYSTEMS

DECISION REFUSING STATUS
UNDER 37 C.F.R. § 1.47(a)

This is a decision on the Petition under 37 C.F.R. 1.47(a) filed February 18, 2004.

The petition is DISMISSED.

Rule 47 applicant is given **TWO MONTHS** from the mailing date of this decision to reply, correcting the below-noted deficiencies. Any reply should be entitled "Request for Reconsideration of Petition Under 37 C.F.R. § 1.47(a)," and should only address the deficiencies noted below, except that the reply may include an oath or declaration executed by the non-signing inventor. **Failure to respond will result in abandonment of the application.** Any extensions of time will be governed by 37 C.F.R. 1.136(a).

The above-identified application was deposited on August 29, 2003, with an unexecuted declaration, and naming James Deerman, Ramanamurthy Dantu, Aswinkumar Rana and Keung Yue as joint inventors. In response to a "Notice to File Missing Parts of Nonprovisional Application," mailed November 21, 2003, applicants filed the instant petition under § 1.47(a) (and fee) and late surcharge under § 1.16(e). Accompanying the petition was a declaration executed by inventors Deerman, Rana and Yue. In addition, there was an added page to combined declaration signed by inventor Deerman on behalf of inventor Dantu. Rule 47 applicants assert that status under § 1.47(a) is proper because inventor Dantu refuses to join in the application. In support thereof, applicants submit the declarations of fact of Carrie Wrich and Craig Cox. This response was made timely by an accompanying petition (and fee) for extension for response within the first month.

A grantable petition under 37 C.F.R. 1.47(a) requires: (1) proof that the non-signing inventor cannot be reached or found, after

diligent effort, or refuses to sign the oath or declaration after having been presented with the application papers (specification, claims and drawings); (2) an acceptable oath or declaration in compliance with 35 U.S.C. §§ 115 and 116; (3) the petition fee; and (4) a statement of the last known address of the non-signing inventor.

The petition includes payment of the petition fee and a statement of the last known address of non-signing inventor Dantu. By declaration of facts, rule 47 applicants have provided evidence that non-signing inventor Dantu has refused to join in the application after having been presented with the application papers. However, the petition is not grantable because the declaration submitted does not satisfy requirement (2).

As to requirement (2), the declaration as submitted is not acceptable. 37 CFR 1.47(a) and 35 U.S.C. 116, second paragraph, require all available joint inventors to file an application "on behalf of" themselves and on behalf of a joint inventor who "cannot be found or reached after diligent effort" or who refuses to "join in an application." Thus, in addition to other requirements of law (35 U.S.C. 111(a) and 115), in an application deposited in the U.S. Patent and Trademark Office pursuant to 37 CFR 1.47(a):

(A) All the available joint inventors must (1) make oath or declaration on their own behalf as required by 37 CFR 1.63 or 1.175 (see MPEP §602, §605.01, and §1414) and (2) make oath or declaration on behalf of the non-signing joint inventor as required by 37 CFR 1.64. An oath or declaration signed by all the available joint inventors with the signature block of the non-signing inventor(s) left blank may be treated as having been signed by all the available joint inventors on behalf of the non-signing inventor(s), unless otherwise indicated.

(Emphasis added).

Here, applicants have submitted a statement indicating that the declaration is signed only by inventor Deerman on behalf of non-signing inventor Dantu. Whereas all of the available joint inventors must sign on behalf of inventor Dantu. Furthermore, the pages of the declaration should be properly numbered 1 of 6, 2 of 6, etc.; and the signature blocks should be properly numbered, where as here, applicants place each signature block on a separate page. A declaration properly executed by all available joint inventors on behalf of themselves and on behalf of non-signing inventor Dantu is required.

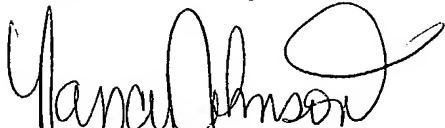
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Telephone inquiries related to this decision may be directed to
the undersigned at (703) 305-0309.

A handwritten signature in cursive script, appearing to read "Nancy Johnson".

Nancy Johnson
Senior Petitions Attorney
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